

R156. Commerce, Occupational and Professional Licensing.

R156-50. Private Probation Provider Licensing Act Rule.

R156-50-101. Title.

This rule is known as the "Private Probation Provider Licensing Act Rule".

R156-50-102. Definitions.

In addition to the definitions in Title 58, Chapters 1 and 50, as used in Title 58, Chapter 50 or this rule:

(1) "Direct supervision of staff" means that the licensee is responsible to direct and control the activities of employees, subordinates, assistants, clerks, contractors, etc., and shall review, approve and sign off on all staff duties and responsibilities. Members of staff shall not engage in those duties and functions performed exclusively by the licensee as defined under R156-50-603.

(2) "Client" means a criminal justice involved person.

(3) "Evidence-based assessment tool" means a validated criminogenic tool that has been psychometrically tested for reliability, validity, sensitivity, and is widely recognized by human service professionals.

(4) "Probation agreement" means the agreement outlining the terms and conditions the probationer shall comply with during probation in accordance with the court order.

(5) "Unprofessional conduct" as defined in Title 58, Chapters 1 and 50, is further defined, in accordance with Subsection 58-1-203(1)(e), in Section R156-50-502.

R156-50-103. Authority.

This rule is adopted by the Division under the authority of Subsection 58-1-106(1)(a) to enable the Division to administer Title 58, Chapter 50.

R156-50-104. Organization - Relationship to Rule R156-1.

The organization of this rule and its relationship to Rule R156-1 is as described in Section R156-1-107.

R156-50-302. Qualifications for Licensure - Education and Equivalent Training Requirements.

In accordance with Subsections 58-1-203(1)(b) and 58-1-301(3), the education and equivalent training requirements for licensure in Subsection 58-50-5(1) are defined, established and defined as follows:

(1) The baccalaureate degree shall include major study in social work, sociology, psychology, counseling, law enforcement, criminal justice, corrections or other related fields.

(2) The equivalent training shall consist of four years of full-time paid employment in private probation, social work, psychology, counseling, law enforcement, criminal practice, corrections or other related fields.

R156-50-303. Renewal Cycle - Procedures.

(1) In accordance with Subsection 58-1-308(1), the renewal date for the two-year renewal cycle applicable to licensees under Title 58, Chapter 50 is established by rule in Section R156-1-308a.

(2) Renewal procedures shall be in accordance with Section R156-1-308c.

R156-50-304. Continuing Education.

(1) In accordance with Subsections 58-1-203(1)(g) and 58-1-308(3)(b) and the continuing education requirement for renewal of licensure in Subsection 58-50-6(2), each person holding a license shall complete 40 hours of qualified continuing professional education (CPE) every two years.

(2) Those persons who become licensed during the renewal period shall be required to complete a total number of CPE hours based upon a formula of five hours of CPE for each of the remaining quarters in the renewal period.

(3) Programs will generally qualify for CPE if the program is related to probation, social work, psychology, counseling, law enforcement, criminal practice, correction or other related fields and if the program will enhance professional development.

(4) Training provided by the licensee for staff will not qualify.

(5) It is the responsibility of the licensee to obtain qualifying CPE and document the CPE on forms supplied by the Division.

(6) The Division may perform random audits to determine compliance with CPE.

R156-50-502. Unprofessional Conduct.

In accordance with Subsection 58-50-2(5), "unprofessional conduct" includes the following:

(1) failing to comply with the continuing professional education requirement of Section R156-50-304;

(2) failing to comply with the operating standards required for a presentence report;

(3) failing to properly supervise the client as set forth in the probation agreement;

(4) failing to disclose any potential conflict of interest relating to supervision of a client as set forth in Subsection 58-50-2(5), including the following circumstances:

(a) simultaneously providing mental health therapy services and private probation services to the same client;

(b) simultaneously providing education and/or rehabilitation services and private probation services to the same client; or

(c) while providing private probation services to a client, also providing any other service to the client for which the licensee receives compensation;

(5) accepting any amount of money or gratuity from a client other than the fees which is set forth in the probation agreement;

- (6) failing to report any violation of the probation agreement; or
- (7) failing to comply with Utah Sentencing Commission Supervision Length Guidelines.

R156-50-601. Private Probation Services Standards - Probation Supervision.

In accordance with Subsection 58-50-9(5), the private probation services standards for probation supervision are established and defined as follows:

- (1) A private probation provider shall perform the following minimum services for each client referred by the court:
 - (a) conduct an initial client interview that includes an evidence-based risk/needs screening, and establish a plan of supervision (the "case plan");
 - (b) if indicated necessary by the risk/needs screening, conduct a risk/needs assessment using an evidence-based assessment tool;
 - (c) review the court order with the client and have the client sign the probation agreement;
 - (d) review with the client:
 - (i) the court ordered fines and other financial obligations; and
 - (ii) the fees for services to be charged to the client, pursuant to Section R156-50-604;
 - (e) after the initial client interview and any risk/needs assessment, conduct an individual, face-to-face interview with the client in accordance with the case plan and any risk/needs assessment as often as necessary to determine that the client is in compliance with the probation agreement and case plan, and not less than:
 - (i) monthly for a high risk client;
 - (ii) every two months for a moderate risk client; and
 - (iii) every three months for a low risk client; and
 - (f) submit written reports as required by the court.
- (2) A private probation provider shall post a notice of grievance procedures in a conspicuous location at the provider's place(s) of business, or make that notice otherwise available to each client. The notice shall include information on how to contact and file a complaint with the Division's investigation office.
- (3) A private probation provider shall report to the court within three working days, or as directed by the court:
 - (a) any new known criminal law violations committed by the client; and
 - (b) any failure by the client to comply with the terms and conditions of the probation agreement, including payment of fines or other financial obligations.
- (4)(a) At least 30 business days prior to the date of termination of any supervised probation, a private probation provider shall notify in writing the court and the office of the prosecuting attorney; and
- (b) include with the notification a report outlining the client's compliance with terms and conditions of the probation agreement including payment of any fines and other financial obligations.
- (5)(a) At least 30 business days prior to an early termination date, a private probation provider shall submit a report to the court with supporting rationale for early termination based on the Utah Sentencing Commission's Supervision Length Guidelines; and
- (b) include in the report:
 - (i) Recent Response and Incentive Matrix (RIM) History;
 - (ii) information on any new criminal conduct;
 - (iii) Case Action Plan (CAP) or risk reduction progress;
 - (iv) treatment and programming progress;
 - (v) restitution payment history;
 - (vi) employment history, residence, and any other relevant factors;
 - (vii) a recommendation on the termination of supervision; and
 - (viii) for a client convicted of a sexual offense, the results from an exit polygraph conducted to determine any inappropriate conduct while on probation.

R156-50-602. Private Probation Services Standards - Preparing Presentence Investigative Reports.

In accordance with Subsection 58-50-9(5), the private probation services standards for preparing presentence investigative reports are established and defined as follows:

- (1) A private probation provider shall gather the following information, if applicable and available:
 - (a) juvenile arrest and disposition records;
 - (b) adult arrest and disposition records;
 - (c) county attorney or city prosecutor file information;
 - (d) arresting officer's report;
 - (e) victim impact statement;
 - (f) driving history record, if the present offense is a driving offense;
 - (g) blood/breath alcohol content test results;
 - (h) treatment evaluations six months or newer;
 - (i) custody status and number of jail days served;
 - (j) findings from the risk/needs screening and any risk/needs assessments; and
 - (k) current situation, to include:
 - (i) employment;

- (ii) living situation;
- (iii) level of education;
- (iv) military status;
- (v) behavioral and physical health status; and
- (vi) personal relationship status.
- (2) A private probation provider shall conduct interviews with the client, and with the following when relevant and available:
 - (a) family;
 - (b) friends;
 - (c) victim(s);
 - (d) employers;
 - (e) military; and
 - (f) past and present treatment providers.
- (3) A private probation provider shall:
 - (a) develop and provide report recommendations based upon the risk/needs screening and any risk/needs assessment;
 - (b) refer in the report to client information obtained from outside agencies, when appropriate for additional evaluation; and
 - (c) recommend restitution, when appropriate.
- (6) A private probation provider shall submit the report to the court, defense attorney, and prosecutor at least three business days prior to sentencing.

R156-50-603. Private Probation Services Standards - Duties and Responsibilities of the Private Probation Provider and Staff.

In accordance with Subsection 58-50-9(5), the respective duties and responsibilities of the private probation provider and staff are established as follows:

- (1) the duties and responsibilities of the private probation provider shall include the following:
 - (a) review, approve and sign all reports required under this chapter or ordered by the court;
 - (b) conduct with each client:
 - (i) an initial interview that includes an evidence-based risk/needs screening; and
 - (ii) an evidence-based risk needs assessment, if indicated;
 - (c) establish each client's case plan;
 - (d) conduct personal interviews with each client as determined by the risk/needs screening and any risk/needs assessment, to include:
 - (i) review of case plan; and
 - (ii) probation agreement compliance;
 - (e) conduct all interviews required in the preparation of the presentence report;
 - (f) when available, review Bureau of Criminal Investigation, Controlled Substance Database, Utah Court XChange, and other applicable data; and
 - (g) attend all evidentiary hearings as requested by the court.
- (2) The duties and responsibilities of the staff under direct supervision of the private probation provider include the following:
 - (a) assist in the gathering of information and the preparation of reports;
 - (b) perform other monthly interviews;
 - (c) contact client by telephone or in person to determine compliance with the case plan;
 - (d) collect fines, restitutions and fees for services; and
 - (e) other clerical duties as assigned by the licensee.

R156-50-604. Private Probation Services Standards - Disclosures and Financial Responsibility.

In accordance with Subsection 58-50-9(5), the private probation service standards for disclosures and financial responsibility regarding services, are established and defined as follows:

- (1) A private probation provider shall provide to each client in writing, and personally review with the client:
 - (a) the provider's current fee schedules for services, including fees for failure to pay for services; and
 - (b) the prohibition against providers providing services outside of the scope of their license.
- (2) A private probation provider may not:
 - (a) split fees, send or receive any commission or rebate, or accept any other form of remuneration for referral of a client for professional services;
 - (b) accept any amount of money or gratuity from a client other than the fee set forth in the probation agreement;
 - (c) use the provider's relationship with the client for personal gain, or for the profit of any entity, agency, or commercial enterprise of any kind; or
 - (d) charge a client for services not rendered.
- (3) A private probation provider shall:
 - (a) maintain and make available for inspection by the Division the provider's fee schedules; and
 - (b) make the provider's fee schedules available for review and approval by a court upon request.

R156-50-605. Private Probation Service Standard - Providing Additional Services, Informed Consent, Display of Licensure.

In accordance with Subsection 58-50-9(5), the private probation service standards for providing additional services, informed consent, and display of licensure are established and defined as follows:

(1) A private probation provider may not simultaneously provide private probation services and other services to the same client, when the probation provider is also the licensed, registered, or certified provider of the other services.

(2)(a) A private probation provider shall obtain a client's prior written consent if private probation services will be provided by the licensee, and the licensee is the owner, officer, director, partner, proprietor, or responsible management personnel of any entity, agency, or commercial enterprise of any kind that will simultaneously provide other services to the client for compensation.

(b) Written consent shall be obtained by means of an informed consent form, signed and dated by the client before receiving private probation services, that includes at least the following:

(i) a description of other services, including any:

(A) behavioral health services;

(B) educational services;

(C) substance use disorder services; or

(D) rehabilitation services;

(ii) a separate paragraph describing how the client can withdraw consent;

(iii) a separate paragraph describing client grievance procedures, that includes information on how to contact and file a complaint with the Division's investigation office; and

(iv) a separate paragraph containing an acknowledgment of being informed of the potential conflict of interest.

(d) A signed and dated informed consent form shall be retained for three years from the termination of probation with the client.

(3) A private probation provider shall display a current copy of their Utah Private Probation Provider license in a conspicuous location at the provider's place of business. If a licensee provides private probation services at multiple business locations, the license shall be displayed at each location.

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